



FAMILY ADVOCACY OF MAINE

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Testimony of Julian Richter, in support of LD 891: An Act to Exclude Poverty as a Factor When Determining Instances of Willful Neglect or Abuse of a Child

Joint Standing Committee on Health and Human Services
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Senator Ingwersen, Representative Meyer, and distinguished members of the Health and Human Services Committee, I am offering testimony in support of LD 891, **“An Act to Exclude Poverty as a Factor When Determining Instances of Willful Neglect or Abuse of a Child.”**

LD 891 represents is the most important step this legislature can take to improve child safety and to unburden Maine’s child welfare system from the unsustainable volume of investigations and court filings. According to the latest federal data, Maine investigates more children than all but three states.¹ In 2022, only 15% of children separated from their families were because of physical or sexual abuse.² In contrast, 74% of children were separated from their families as a result purely of circumstances neglect.³

Despite the overwhelming percentage of cases resulting from allegations of neglect, Maine’s current law fails to define what neglect is in any meaningful way. See [M.R.S. §4002\(1\)](#). Under our law, neglect and poverty are easily conflated.⁴ The current definition of neglect is so broad that any parent could be found to be an abuser of children, so long as there is *any* circumstance that causes a threat that may cause physical, mental, or emotional injury or impairment in the future.

This explains why Maine was recently reported to be substantiating parents for abuse at a rate of more than double the national average.⁵ It also helps explain why Maine is separating children from their caregivers at a rate of more than double the national average.⁶ At the same

¹ <https://acf.gov/sites/default/files/documents/cb/cm2023.pdf> see Table 3-1 P. 35

² https://acf.gov/sites/default/files/documents/cb/afcars-tar-me-2022_0.pdf See Page 3

³ [Id.](#)

⁴ <https://mainemorningstar.com/2023/12/20/maines-definition-of-neglect-is-easy-to-conflate-with-poverty/>

⁵ <https://spectrumlocalnews.com/me/maine/news/2023/04/27/report-maine-tops-country-in-child-abuse-and-neglect>

⁶ <https://drive.google.com/file/d/1-7H8vNhd9zxkpWzLOewiS8qLCkeUJmTt/view>

time, Maine front-line CPS caseworkers struggled to comply with their own policies in the vast majority of cases.⁷

The ill-defined definition of neglect and unnecessary investigations and court filings has directly led to the Constitutional crisis occurring in parents being denied the right to counsel.⁸ Maine's child welfare system is failing children and families on every level.

The Office of Children and Family Services (OCFS) will almost certainly stand to oppose this bill. They will likely tell this committee that they do not remove children from their families for being poor. As someone who has represented hundreds of parents in child protection cases, I can tell you this is unequivocally not true.

While being poor, is not by itself abuse or neglect; a family having their electricity shut off may lead to a finding of neglect; a family having a vehicle break down may lead to a finding of neglect; a family needing plumbing repairs may lead to a finding of neglect; a family that can't afford to pay for surgeries or other necessary services may lead to a finding of neglect.

The child welfare system is sometimes called the family regulation or family policing system. These titles more accurately described the work of Child Protective Services (CPS). For example, CPS may receive a report from a doctor that a child failed to come to their six-year old's well-child check and hasn't see a physician in over a year. That child may be perfectly healthy. That family's vehicle may have recently broken down making them unable to attend the appointment. CPS will not substantiate them for neglect based on poverty; but they will open an investigation against the child's caregivers.

Once opened, the CPS investigator will demand access to the family home. They will demand that the caregivers sign any and all releases of information to obtain protected health and educational records; they will demand that they are able to speak with the children alone. They will threaten removal of the child if the caregiver pushes back on the investigation.

Perhaps when they enter the home, they see that dishes have accumulated in the sink, because the dishwasher is broken; perhaps they will find out that the landlord has allowed a bed bug infestation in the building; perhaps they will find out that there is an eviction proceeding pending. Any of these factors, and many other hypotheticals, especially in conjunction with each other, will almost certainly lead to a finding of neglect and possible removal of the child.

As the law stands now, CPS has minimal obligations to remedy the conditions related to poverty, but instead, is incentivized by funding requirements to place the child in foster care with strangers. This is incredibly traumatic to the child and their caregivers. CPS workers will say "this is the only way we can pay for the services." This unacceptable answer is all too often the State's answer to why they filed a CPS case.

⁷ <https://themainemonitor.org/federal-child-welfare-audit/>

⁸ <https://themainemonitor.org/parents-awaiting-attorney-rises/>

Once in the foster care, the State is willing to pay tens of thousands of dollars for foster placements, attorneys, court time, services and CPS time. Yet, they still have no funding to help the family repair their vehicle, fix the dishwasher, help secure the family housing. If the parents are unable to “pull themselves up by the bootstraps,” the State’s answer is to terminate the parent’s rights, so that they may be adopted by a better heeled and economically advantaged foster placement.

To be sure, we are living through a crisis. Our State doesn’t have enough foster placements for children, we don’t have attorneys for parents, CPS workers don’t have bandwidth to investigate serious cases of abuse allegations, we don’t have enough court time to litigate the cases that are filed, and we don’t have a functioning behavioral or medical health system.

CPS’ answer is to ask for more funding so they can pursue more investigations and more court filings. The only way to stop the bleeding is for this legislature to appropriately define neglect. Not doing so is a statement that every parent in Maine is abusing and neglecting their child. Not doing so, tells CPS that they should continue to investigate and substantiate parents for everything that “might” cause an emotional impairment to a child later in life.

Our Constitution demands more. We are a better state than that. Mainers are not abusing their children a rate of twice the national average. Our CPS agency is twice as aggressive as other states. Texas recently narrowed their definition of neglect. It led to a dramatic drop in children entering foster care. It did not increase child fatalities. Maine can do better. We need to stop policing and regulating poor families. Instead, we need to focus our CPS agency on serious physical and sexual abuse, so that we have the resources to protect children at risk.

Moreover, LD 891 represents an opportunity to tell CPS to start providing the support and services that children and families need in their home. CPS should bring resources to poor families, not investigations and “findings of abuse.” Until we recognize the scope and source of the problem, we will remain in this crisis.

While I write for myself, I am the President of the Maine Parental Rights Attorneys Association (“MEPRAA”), Statewide Resource Counsel for Child Protective Cases through the Maine Commission on Public Defense Services (“PDS”), and a member of the Maine Child Welfare Advisory Panel (“MCWAP”). I urged you to vote “ought to pass” on LD 891

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